Management Advisory Report: The Strategy for Curbing Abusive Corporate Tax Shelter Growth Shows Promise but Could Be Enhanced by Performance Measures

September 2001

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 13, 2001

MEMORANDUM FOR COMMISSIONER, LARGE AND MID-SIZE BUSINESS DIVISION

Gordon C. Milbourn III

FROM: (for) Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Management Advisory Report - The Strategy for Curbing Abusive Corporate Tax Shelter Growth Shows Promise but Could Be Enhanced by Performance Measures

This report presents the results of our review of whether the processes in the Internal Revenue Service's (IRS) Large and Mid-Size Business (LMSB) Division effectively address Abusive Corporate Tax Shelters.

In summary, the IRS has made progress towards curbing abusive corporate tax shelter growth. An important first step taken was to establish a central office, the Office of Tax Shelter Analysis (OTSA) in the LMSB Division. The head of the OTSA has collaborated with the LMSB Division design teams in developing a multi-faceted strategy that shows promise in effectively curbing abusive corporate tax shelter growth through a centralized coordination of deterrence, detection, and resolution activities.

A critical part of the overall approach in deterring shelters is the expanded disclosure rules, which require participants to provide statements to the OTSA describing potentially abusive transactions. In addition, financial service providers and others involved in selling potentially abusive corporate tax shelters have to maintain lists of the corporations that buy their shelters and make them available to the OTSA for inspection. Because cleverly constructed abusive shelters can be difficult to detect if not properly disclosed, the OTSA is creating databases from disclosure statements and other sources to give them the capability of cross-checking reported tax information. To oversee and approve resolution actions that could include initiating examinations or imposing penalties on shelter participants, a high-level steering committee has been formed. Since many different IRS offices could be involved in resolving an abusive shelter, the steering committee will be a key control for ensuring that shelter participants are treated consistently throughout the country and that abusive transactions are distinguished from ones designed to legally reduce taxes.

While the LMSB Division's approach for curbing abusive corporate tax shelter growth shows promise, it could be enhanced by performance measures. Anecdotal evidence gathered initially by the IRS, Department of the Treasury, and others indicated that the government could be at risk of losing $10 billion annually through abusive corporate tax shelters. However, the Division has yet to develop reliable information needed to ensure that this initial estimate is valid and that it can form a baseline against which progress can be measured. Initial actions to "size-up" the problem involved surveys of the LMSB Division managers and examiners. The survey results are now being used, in part, to develop and test a complex mathematical formula that the LMSB Division believes will provide a more precise baseline estimate of the abusive tax shelter problem.

Management Response: In commenting on a draft of this report, the Commissioner, LMSB Division, concurred with our recommendations and agreed to take efforts to implement them. Management's complete response to the draft report is included as Appendix IV.

Copies of this report are also being sent to IRS officials who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have any questions or Gordon C. Milbourn III, Assistant Inspector General for Audit (Small Business and Corporate Programs), at (202) 622-3837.

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Background

Abusive corporate tax shelters are sophisticated transactions often developed by tax accountants, lawyers, and other financial service providers and sold to corporations as a way to lower their tax liabilities. Even though the transactions may comply with the tax law, they typically lack a legitimate business purpose other than reducing taxes. One example of a shelter involved a lease agreement structured so one party could deduct expenses currently and report income later. The mismatch between current deductions and delayed income generated significant tax benefits.

The Department of the Treasury, the Congress, and some tax professionals have serious concerns about the corrosive effect abusive corporate tax shelters could have on the tax system. In reports issued in 1999, the Department of the Treasury and the Congress' Joint Committee on Taxation indicated abusive shelters could be costing the government billions of dollars in lost revenue annually. Besides the revenue loss, there is even greater concern that abusive corporate tax shelters could ultimately undermine voluntary compliance by reducing the trust responsible taxpayers have in the integrity of the tax system.

In response to the concerns, the Internal Revenue Service's (IRS) Large and Mid-Size Business (LMSB) Division formalized a strategic plan in Fiscal Year (FY) 2000 to strengthen the IRS' ability to deal with abusive corporate tax shelters. The LMSB Division considers its plan a critical element needed to achieve the IRS' core goals of applying the tax law with integrity and fairness.

The LMSB Division serves approximately 224,000 business taxpayers with over $5 million in assets. The Division annually examines approximately 20,000 tax returns, including 450 to 575 of the nation's largest corporations.

This review is part of our FY 2001 emphasis areas focusing on the LMSB Division's strategic initiatives. We performed work in the Division's National Headquarters. Our review was conducted between October 2000 and March 2001 and was performed in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*. Detailed information of our objective, scope and methodology are presented in Appendix I. Major contributors to the report are listed in Appendix II.

Progress Made Towards Curbing Abusive Corporate Tax Shelter Growth

The IRS has made progress towards curbing abusive corporate tax shelter growth. In February 2000, the IRS created a central office, the Office of Tax Shelter Analysis (OTSA) in the LMSB Division to coordinate and guide efforts at curbing the growth of abusive corporate tax shelters. While not all processes for dealing with abusive corporate tax shelters have been finalized, some important steps have been taken. As of April 2001, the head of the OTSA had collaborated with the LMSB Division design teams and had developed and begun implementing a multi-faceted approach for combating abusive corporate tax shelters through a centralized coordination of deterrence, detection, and resolution processes.

Processes to deter abusive corporate tax shelters

A critical part of the overall strategy is deterring the promotion of abusive corporate tax shelters through expanded disclosure rules. The rules especially target shelters that are being promoted or sold for fees in excess of $100,000. The rules were announced with the creation of the OTSA and involve three elements:

1. **Registering Shelters.** The shelter promoters are required to apply for a unique registration number for each tax shelter though the IRS' Ogden Submission Processing Center. The registration number enables the IRS to trace transactions that it considers were structured primarily for tax avoidance or evasion.

2. **Keeping investor lists and promotion material.** The promoters are also required to keep a list of the corporations that buy their shelters as well as the promotional material used to sell the shelter. Both the list and promotional material need to be available for inspection by the IRS when requested.

3. **Providing disclosure statements.** The corporations that purchase certain transactions the IRS considers potentially abusive are required to outline the transaction

in a statement that is provided to the OTSA and attached to their tax returns. Generally, these are transactions that can reduce tax liabilities by more than $5 million in a year or are one of the transactions the IRS has published in guidelines as "listed transactions."

In addition to publishing guidelines, another visible component of the overall strategy to deter participation in abusive corporate tax shelters has been through outreach and education efforts. LMSB Division officials have participated in numerous information-sharing meetings with professional associations such as the American Institute of Certified Public Accountants and the American Bar Association.

Processes to detect abusive corporate tax shelters

To date, abusive corporate tax shelters have been primarily identified through tips from concerned professionals or in IRS examinations that found irregularities on tax returns. While tips and examinations have identified and addressed some abusive corporate tax shelters, government officials are concerned that more cleverly constructed abusive corporate tax shelters are going undetected. To address this concern, the OTSA is creating databases from registration statements, disclosure statements, and other sources to give it the capability of cross-checking reported tax information.

In addition, the LMSB Division has developed a comprehensive plan that will enable the IRS to begin accepting corporate returns and supporting schedules electronically in FY 2003. Once the electronic return information is received, it can be organized into databases to allow a greater capability for identifying potentially abusive transactions. Currently, the IRS transcribes into its databases only about 150 line items out of the thousands that could be reflected on a corporate return. According to LMSB Division officials, this limited data does not make it feasible to conduct the detailed analysis needed for identifying potentially abusive shelters electronically, particularly ones that are cleverly designed.

Processes to resolve abusive corporate tax shelters

To oversee and approve resolution actions, a high-level steering committee, the Tax Shelter Promoter Committee, has been formed. The Committee is comprised of IRS executives and officials from the IRS' Office of Chief Counsel and Criminal Investigation function. The Committee is a key control for ensuring that taxpayers are treated consistently throughout the country and that abusive transactions are distinguished from ones designed to legally reduce taxes.

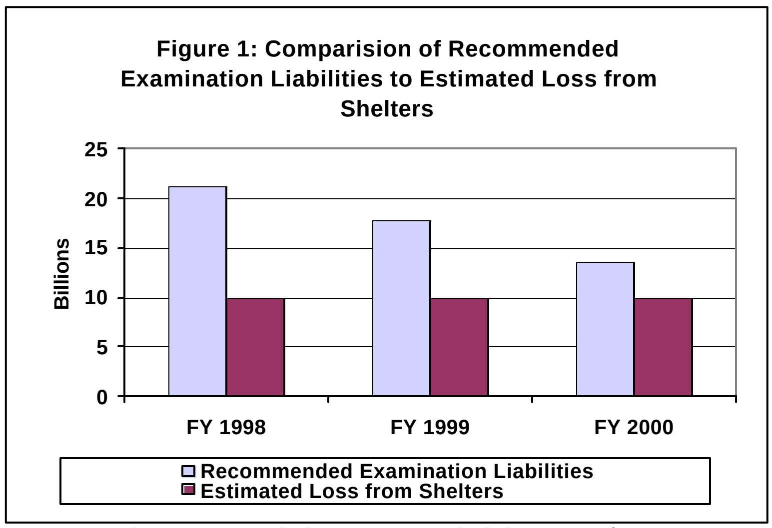
The planning documentation we reviewed indicates that resolution techniques vary depending on whether the IRS is dealing with a promoter of or investor in an abusive corporate tax shelter. Severe penalties under Internal Revenue Code Section 6700 will likely be pursued in promoter cases since they can be considered a root cause of the problem. Penalties could result in assessing up to $75 million or higher against a promoter.

To resolve investor cases, a less aggressive approach is being considered. The plans call for contacting investors through "soft notices" and asking them to review their records and make corrections, if necessary. To make the correction, an investor may need to file an amended return. If the investor does not comply with the request, an examination will be initiated to disallow the abusive transaction and assess additional taxes and penalties.

Reliable Baseline Information Would Provide a Stronger Foundation for the Strategy

Concerns that the government may be at risk of losing $10 billion annually through abusive corporate tax shelters began to surface in 1999 from sources inside and outside of the government. However, the LMSB Division does not have reliable information needed to ensure whether this estimate is accurate and to measure the success of the abusive corporate tax shelter strategy. Without establishing this baseline now, the Division's ability to measure the success of its strategy to curb the growth of abusive tax shelters would be limited.

To add perspective to the $10 billion that some estimate the government may be losing annually through shelters, we compared it to the total additional liabilities recommended in all IRS field and office examinations in FY 1998, 1999, and 2000. On average, IRS revenue agents and tax auditors examined 474,131 individual, corporate, and other returns and recommended additional liabilities of $17.9 billion. In FY 2000, the $10 billion estimated annual loss from shelters was 68 percent of the total additional liabilities recommended in all examinations. Figure 1 shows a comparison between the $10 billion estimated loss from shelters to the total additional liabilities recommended from all IRS examinations in FY 1998, 1999, and 2000.



Sources: The recommended examination liabilities are from IRS Table 37, Examination Program Monitoring. The estimated annual loss from shelters is from the U.S. Treasury White Paper on Corporate Tax Shelters.

The IRS recognized that it needed a starting point for estimating the extent of the abusive corporate tax shelter problem. The initial actions to "size-up" the problem involved surveys of field personnel. In October 1999, field personnel were sent questionnaires that solicited information to assist in determining the loss of revenue and the extent of the corporate tax shelter problem. A second survey was initiated a year later (October 2000) that involved all LMSB Division field staff. The information collected from the surveys is now being used, in part, to develop and test a complex mathematical formula that the LMSB Division envisions will provide a more precise estimate of the corporate tax shelter problem.

However, we found various methodology problems in how the surveys were performed that raise questions about whether the survey results can be used successfully in developing a reliable baseline measure. We compared the recommended methodology for conducting surveys that is outlined in the IRS' *Guidelines for Conducting Statistical Surveys* to the methodology used to survey the field personnel and found the following problems.

Low response rates to the 1999 and 2000 surveys limit the IRS' ability to rely on the results. Adequate consideration was not given to assigning control numbers to the survey questionnaires or using other techniques to minimize the number of no-responses that required follow-up. Participants that do not respond are a major source of error that significantly reduces the reliability of survey results. Because of the control limitations, the IRS did not have the information that showed the actual number of field personnel that received the surveys. To overcome some of the control limitations and to estimate a response rate, we compared the number of respondents recorded in the IRS databases to the number of field managers targeted for survey. Our estimated response rate was less than 30 percent for each of the surveys and would be lower if field personnel other than managers received a survey questionnaire.

Data from the 2000 survey was not always consistently collected. We judgmentally selected for review 86 records in the database that contained results from the 2000 survey and found inconsistencies in the data collected. For example, some respondents projected potential tax liabilities related to shelters to returns that were not under examination, and in some cases they were not yet even filed. Other respondents limited the potential tax liabilities to the returns that were under examination.

These conditions occurred because the survey preparers did not fully consider the need for technical advice from subject matter experts like a statistician trained in administering data gathering surveys. One LMSB Division official told us he did not see how the IRS' *Guidelines for Conducting Statistical Surveys* applied to the surveys because they were not trying to build a statistical model. Instead, the surveys were performed to determine the field inventory of abusive corporate tax shelters.

We are not questioning the need to move forward with implementing the strategy given the widespread concern over abusive corporate tax shelters. However, the LMSB Division needs reliable baseline information as a starting point for measuring the success of the strategy and improving its ability to manage and oversee implementation of the strategy.

We discussed this report with LMSB officials on July 20, 2001. They advised us that the LMSB Division has initiated a formal study to (1) estimate the potential tax revenue impact attributed to abusive corporate tax shelters, (2) define characteristics and behavioral triggers of abusive shelters, and (3) develop an abusive corporate issue identification system. According to officials the study will involve additional surveys of LMSB Division managers and examiners.

Recommendation

1. The Commissioner, LMSB Division, should take steps to lay a better foundation for the abusive corporate tax shelter strategy by obtaining a more precise estimate of the shelter problem. This could be accomplished by coordinating with statisticians or other experts in the LMSB Division's newly established Office of Strategy and Research and Program Planning, in:

   - Assessing the effect the results from the 1999 and 2000 surveys have on current efforts to measure the extent of the shelter problem. In light of the problems identified in the surveys, the assessment should document the rationale behind any decision to continue using the results in ongoing work.

- Designing and conducing a statistical survey of LMSB Division managers and examiners using valid data collection procedures.

Management's Response: The Commissioner, LMSB Division, recognizes the need to conduct a formal study to determine the effect abusive corporate tax shelters have on the LMSB Division's corporate tax population. Among other actions, the OTSA and the LMSB Division's Office of Strategy, Research, and Program Planning, established a research team that will:

- Estimate the potential tax revenue effect attributed to abusive corporate tax shelters.
- Define characteristics and behavioral triggers of abusive shelters.
- Develop an abusive corporate issue identification and classification system.

Performance Measures Are Needed to Determine Whether the Office of Tax Shelter Analysis Is Successful

Once reliable baseline information is established for the strategy, the next step would be to develop effective performance measures for tracking the progress the OTSA makes against the baseline. LMSB Division Design Teams established the charter and detailed plans that led to the vision, organizational structure, core functions and activities, roles and responsibilities, and key processes that the OTSA is using today.

We reviewed the Design Teams' charters and detailed plans and concluded that adequate consideration was not given to developing or recommending performance measures needed to track whether the OTSA is meeting its objectives. The absence of performance measures for the OTSA raises concerns that the LMSB Division managers may have difficulty effectively managing the implementation and operation of its strategy to curb the growth of abusive corporate tax shelters.

Both the General Accounting Office (GAO) and the Treasury Inspector General for Tax Administration have previously reported that establishing performance measures is central to the success of any significant undertaking.

Successful undertakings rely heavily upon performance measures to achieve objectives, quantify problems, evaluate alternatives, allocate resources, track progress, and learn from mistakes. The GAO's *Executive Guide: Effectively Implementing the Government Performance and Results Act* indicates that a combination of output and outcome measures is appropriate for assessing performance.

Output measures generally provide information about an undertaking of program actions taken, in terms such as the number of actions completed, or the number completed in a specified time frame. For example, an output measure for the OTSA could show the number of abusive tax shelters identified within a specified time frame. Outcome-oriented measures show program results achieved related to effectiveness, efficiency, or impact. An outcome measure for the OTSA could include the tax dollars saved through its actions.

Recommendation

2. The Commissioner, LMSB Division, should develop performance measures for the OTSA that will allow managers to better target problem areas, highlight successes, evaluate alternatives, and track whether the OTSA is achieving desired outcomes.

Management's Response: The LMSB Division Offices of Pre-filing and Technical Guidance, and Performance, Quality, and Innovation will jointly work to develop appropriate performance measures in FY 2002.

Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to assess the effectiveness of the Large and Mid-Size Business (LMSB) Division's plans for curbing abusive corporate tax shelter growth. We performed work at the LMSB Division's National Headquarters in Washington, D.C. Our work was focused in the following areas:

I. Interviewed management officials from the LMSB Division's Tax Shelter Analysis Design Team, the Office of Pre-filing and Technical Guidance, the Office of Appeals, and the Office of Chief Counsel to obtain information about the development, implementation, and measurement of the abusive corporate tax shelter strategy.

II. Analyzed planning and other documents prepared by Tax Shelter Analysis Design Teams to obtain information about the core processes designed for the Office of Tax Shelter Analysis, including the tax shelter registration process, disclosure statement process, and hot-line process.

III. Reviewed documentation from the General Accounting Office and prior Treasury Inspector General for Tax Administration audits that addressed the importance of establishing performance measures for significant undertakings.

IV. Reviewed relevant documents and reports prepared by the Department of the Treasury, the Congress' Joint Committee on Taxation, the Internal Revenue Service (IRS), and outside tax professionals to obtain estimates on the amount of dollars the government may be at risk of losing from abusive corporate tax shelters.

V. Compared the methodology used to survey LMSB Division managers and examiners to the IRS' *Guidelines for Conducting Statistical Surveys* to assess whether the survey results could be relied upon as a baseline measure of the abusive corporate tax shelter problem.

VI. Assessed the effect that unreliable survey results could have on the LMSB Division's Office of Strategy, Research, and Program Planning's efforts to develop a more precise estimate of the abusive corporate tax shelter problem.

VII. Evaluated whether Tax Shelter Analysis Design Teams adequately considered work processes for deterring, detecting, and resolving shelters in a manner that would ensure taxpayers are treated consistently and that abusive transactions are distinguished from ones designed to legally reduce taxes.

VIII. Assessed the level of outreach and education activity the LMSB Division has been involved with by reviewing Internal Revenue Bulletins, expanded tax shelter disclosure rules, and presentations given to internal and external stakeholders.

IX. Analyzed IRS Table 37, Examination Program Monitoring, to determine the total additional liabilities recommended from all audits in Fiscal Years 1998, 1999, and 2000.

Appendix II

Major Contributors to this Report

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Appendix III

Report Distribution List

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Commissioner, Large and Mid-Size Business Division LM

Appendix IV

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
LARGE AND MID-SIZE
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MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Larry R. Langdon
Commissioner, Large and Mid-Size Business Division (LMSB)

SUBJECT: Draft Audit Report #2000-30-030, Management Advisory Report: The Strategy for Curbing Abusive Corporate Tax Shelters Growth Shows Promise, but Could Be Enhanced by Performance Measures

Thank you for the opportunity to review and comment on the subject draft report. We appreciate your comments on the progress the IRS made toward curbing abusive corporate tax shelter growth. We believe our Office of Tax Shelter Analysis (OTSA) and the processes established to obtain and evaluate tax shelter information greatly enhanced our effectiveness in addressing abusive corporate tax shelter transactions.

Generally, we agree with the findings and recommendations in the draft report, except for the findings on the "low" survey response rate and the "inconsistent" collection of data from the 2000 survey. We have carefully considered your findings and recommendations and offer the following comments.

IDENTITY OF RECOMMENDATION/FINDING #1:

Recommendation:

- The Commissioner, LMSB Division, should take steps to lay a better foundation for the abusive corporate tax shelter strategy by obtaining a more precise estimate of the shelter problem. This could be accomplished by coordinating with statisticians or other experts in the LMSB Division's newly established Office of Strategy and Research and Program Planning in:
    - Assessing the effect the results from the 1999 and 2000 surveys have on current efforts to measure the extent of shelter problem. In light of the problems identified in the surveys, the assessment should document the rationale behind any decision to continue using the results in ongoing work.
    - Designing and conducting a statistical survey of LMSB Division managers and examiners using valid data collection procedures.

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Findings:

The following conditions occurred because the 1999 and 2000 surveys prepared did not fully consider the need for technical advice from subject matter experts like a statistician trained in administering data gathering surveys.

- A very low response rate to the 1999 and 2000 surveys limits the IRS' ability to rely on the results. Adequate consideration was not given to assigning control numbers to the survey questionnaires or using other techniques to minimize the number of no-responses and provide for follow-up.
- Data from the 2000 survey was not always consistently collected.

ASSESSMENT OF CAUSES:

Low response rates to the surveys limited the IRS' ability to rely on the results.

Our 1999 and 2000 Abusive Corporate Tax Shelter (ACTS) surveys were designed to identify known cases with abusive tax shelter issues. We did not design these surveys to establish baseline measures or estimate the tax shelter problem. Rather, we gathered information from cases in the examination process that we could evaluate for compliance planning. To minimize the burden on field personnel and accelerate the inquiry process, we requested responses only from those cases in which we identified a tax shelter issue. Accordingly, we did not solicit negative responses.

We distributed the survey questionnaires through the appropriate management communication channels to ensure broad field distribution. Although we did not establish the survey response rate, we believe we obtained valuable consolidated information on the actual examination of tax shelter issues from these surveys. The survey results have been a very effective tool for the purposes we intended. They have helped us coordinate and identify emerging issues, and resulted in issuance of two tax shelter notices, IRS Notices 2001-17 and 2001-45. We continue to use information from these surveys to improve case coordination and identify emerging tax shelter issues and trends.

Data from the 2000 survey was not consistently collected.

The apparent inconsistencies, as reported by TIGTA, were attributed to the different types of tax shelter transactions surveyed. Most of the "inconsistencies" related to Lease-in-Lease-out (LILO) transactions. LILO transactions, once entered into, have a set and predictable tax benefit over a set number of years, and make the task of projecting future tax benefits easier. Team managers, with the assistance of the Technical Advisor, Leasing Technical, provided survey information on LILO transactions that were identified for all filed returns. The reference to "inconsistencies" relative to projections for "returns that were not under examination" and "returns not yet even filed" that indicate the projection of future tax benefits related to LILO tax shelter transactions were determined with the assistance and expertise of the Technical Advisor. Based on our purpose for conducting the 2000 survey, we believe we collected consistent survey data.

CORRECTIVE ACTIONS:

We recognize the need to conduct a formal study to determine the impact of abusive corporate tax shelters on the LMSB Division's corporate tax return population. Working with Office of Tax Shelter Analysis, the LMSB Division's Office of Strategy, Research, and Program Planning (SRPP) established a Research Team that will:

- Estimate the potential tax revenue impact attributed to abusive corporate tax shelters
- Define characteristics and behavioral triggers of abusive shelters
- Develop an abusive corporate issue identification and classification system

In addition, Professors Lillian F. Mills, Ph.D., CPA, and Kaye Newberry, Ph.D., CPA, from the University of Arizona are analyzing financial and tax information to identify statistical measures and behavioral triggers of abusive shelters. We will develop new survey designs with the help of IRS' statisticians. Professor Marie Gaudard, Department of Math and Statistics, University of New Hampshire will review these designs. The Research Team is also coordinating their efforts with the Office of Tax Analysis, Department of Treasury.

The IRS' Commissioner asked the Offices of Program Evaluation and Risk Analysis (OPERA) and Intelligent Business Solutions to investigate advanced technology solutions for IRS problems. As part of this effort, we have retained the services of HNC, Inc., a world-renowned neural networking and data-mining vendor. HNC, Inc. will help us identify corporations using abusive tax shelters and estimate the size of the compliance problem.

SRPP's research analysts are partnering with external and internal networks to use intelligence gathering strategies to detect and address ACTS. They developed an action plan with the following three primary actions to obtain critical information:

1. Conduct telephone surveys with all Coordinated Industry Case managers and a random sample of industry cases to obtain data on taxpayers not engaged in ACTS ("Good Taxpayer Profiling"). HNC, Inc. identified the random sample.

2. Interview Technical Advisors and field examiners to determine shelter characteristics, patterns, and audit techniques.

3. Develop a detailed survey in FY 2001 of all LMSB open cases to further refine data quality and quantity.

We will establish procedures and controls to ensure all tax returns identified for the

FY 2001 survey are properly accounted and tracked. We will also design a survey to obtain reliable data that will help us develop a precise baseline estimate of the ACTS problem.

IMPLEMENTATION DATE:

Proposed Completion Date: 10/1/02

RESPONSIBLE OFFICIAL:

Director, Strategy, Research and Program Planning

CORRECTIVE ACTIONS MONITORING PLAN:

The Abusive Corporate Tax Shelter Study is incorporated into the LMSB Division's Strategic Plan. We will monitor it using our internal Strategic Plan reporting process.

IDENTITY OF RECOMMENDATION/FINDING #2:

Recommendation:

The Commissioner, LMSB Division, should develop performance measures for OTSA that will allow mangers to better target problem areas, highlight successes, evaluate alternatives, and track whether OTSA is achieving desired outcomes.

Finding:

TIGTA reviewed the Tax Shelter Design Team charter and detailed plans and concluded that adequate consideration was not given to developing or recommending performance measures needed to track whether OTSA is meeting its objectives. The absence of performance measures for OTSA raises concerns that the LMSB Division managers may have difficulty effectively managing the implementation and operation of its strategy to curb the growth of abusive corporate tax shelters.

ASSESSMENT OF CAUSES:

We focused the Tax Shelter Design Team's efforts on designing and implementing operational processes and procedures to administer the tax shelter hotline, tax shelter registration information, and disclosure information. Additionally, the Design Team developed the communications and training strategy to support the Abusive Tax Shelter strategic initiative.

Strengthening our ability to deal with abusive corporate tax shelters has been an LMSB Division's strategic initiative since standup of the organization in June 2000. Since establishing this strategic initiative, we have focused on implementing the procedures and mechanisms that will allow us to effectively monitor progress of the Tax Shelter initiatives. For FY 2002, we will continue to develop indicators to measure organizational progress of the Corporate Tax Shelter initiatives.

CORRECTIVE ACTION:

The LMSB Division's Offices of Pre-filing and Technical Guidance and Performance, Quality & Innovation will jointly work to develop appropriate performance measures in FY 2002.

IMPLEMENTATION DATE:

Proposed Completion Date: 10/1/02

RESPONSIBLE OFFICIALS:

Director, Pre-filing and Technical Guidance
Director, Performance, Quality & Innovation

CORRECTIVE ACTION MONITORING PLAN:

We will develop an appropriate monitoring plan to ensure completion of this recommendation.

If you have any questions, please contact Gerald W. Reese, Director, Pre-filing and Technical Guidance at (202) 283-8280.